

HOUSE BILL 1517

June 11, 1991

The 1991 Indiana General Assembly passed and Governor Bayh signed into law House Bill 1517, a part of which takes effect on July 1, 1991.

That part, codified as Ind. Code s 22-3-5-5.5, has resulted in uncertainty and confusion in the insurance industry. This Bulletin is intended to address that uncertainty and confusion.

I.

APPLICABILITY:

A. Insurer:

H.B. 1517 offers optional endorsements to worker's compensation policies, which optional endorsements may include deductible or co-insurance provisions for an insured. Both options can be offered to a named insured on one policy. Ind. Code s 22-3-5-5.5 is a permissive provision and does not require companies to offer deductibles or co-insurance.

However, both moral obligations and prudent business practices should compel an insurer to conduct and complete a thorough review of a potential insured's financial statements to evaluate the feasibility and practicality of the applicant's insured's entry into a partial self-insured status.

B. Insured:

Clearly, H.B. 1517 presents a risk to a named insured because of the inherent financial uncertainty of entering the deductible of co-insurance arena for the first time on a worker's compensation policy.

II.

STATUTORY REQUIREMENTS:

The insurer has full responsibility and liability for settling and paying worker's compensation claims before recovering a deductible or co-insurance from the insured.

The Department posits that Ind. Code s 22-3-5-5.5 is comparable to health insurance coverage. That is, after payment has been made by the insurer on a worker's compensation claim, the insurer then may recover from the insured the deductible first and co-insurance second.

III.

NOTIFICATION:

The Department of Insurance opines that House Bill 1517 does not have any requirement to notify potential insureds or agents except through desired marketing practices.

Each potential risk should be evaluated and underwritten by the insurer on an individual basis.

John J. Dillon, III
Commissioner